

8-027 2004 ~~RE~~ GYPSY & TRAVELLER CULTURE STATEMENT
BY SW LAW

**STATEMENT OF BRIAN CHARLES COX
IN RELATION TO
GYPSY HABITS AND EDUCATIONAL MATTERS**

ATTACHMENT 1

**RELEVANT SECTIONS OF REPORT OF
COMMISSION FOR RACIAL EQUALITY**

2ND April 2004.

STATEMENT OF GYPSY HABITS AS RELATED TO EDUCATIONAL MATTERS AND RELEVANT PRINCIPLES OF EDUCATIONAL LAW.

This statement is prepared by Mr B.C. Cox, Solicitor, and provides a general explanation of Educational Law as it relates to Gypsy children and should be read in conjunction with specific facts of individual cases.

1. Mr. Cox is a Solicitor who has been practising law since 1959 and qualified as a solicitor in 1974. He is a Higher Court advocate (civil). He has since 1994 specialised in representing parents and children who have difficulties within the education system and in particular in relation to children who have special educational needs or are out of school and need a package of support to re-integrate the child back into the Education system. He also represents Gypsies who are seeking to remain on land they own and obtain Planning Permission.
2. The Gypsy, historically has lived a nomadic way of life and earn their living as they travel to traditional areas for work in season, e.g. hop, bean, fruit picking etc. They would also attend Gypsy fairs to meet other Gypsies and trade in horses etc. Their existence and indeed their culture resulted in them being independent of the established community. It was therefore rare for the Gypsy to attend school and thus learn to read and write.
3. Their independence from the established community meant that they had a limited need for literacy skills and in consequence the majority of Gypsies who continue to travel and are over 30 years of age have very limited literacy skills and therefore are unable to provide the 'at home' teaching which can and is provided by the parents of the child from the established community. The consequence is that the children of Gypsies will not be taught to read and write at an early age and if the child attends school it will immediately be at a disadvantage in relation to other children at the school.

4. With the passing of the Caravan Sites Act (Development and Control) Act 1960 the ability of the Gypsy to occupy 'common land' was restricted and Councils employed 'Gypsy Eviction Officers' to move the Gypsy off land they had traditionally occupied, often at short notice.
5. The intention of the Government at the time was to try and establish more control over the land which the Gypsy was occupying. In consequence Local Authorities were also given the power to provide transit sites for the Gypsy to occupy as they travelled around the country. It is regrettable that there was little enthusiasm by Councils to make any site provision.
6. The difficulties created by the lack of site provision and constant eviction of the Gypsy were quickly recognised by the Government and the need to ensure an adequate site provision was considered essential. The Caravan Sites Act 1968 imposed a duty upon Councils to provide sites for Gypsies; despite that duty a very limited number of Councils actually made any provision and the problems created by the lack of sites continued.
7. It should be appreciated that the problems created by the lack of sites is not only suffered by the Gypsy and the following consequences flow:
 - a) The Gypsy will often have nowhere to site their caravan and are therefore subject to constant eviction, often whilst working in a location.
 - b) The Gypsy child cannot be placed in a school for any meaningful period as the family are never in one location for a sufficient period of time.
 - c) As there is no land for the Gypsy to lawfully occupy they are forced to trespass and that causes major problems for the land owner, both by virtue of the actual occupation but also because of the cost incurred to evict.
 - d) Considerable expense is incurred by Councils and the Police as they become involved in the eviction process.

It is therefore suggested that no one benefits from the failure to make adequate site provision.

8. **The Caravan Sites Act 1968** was not successful and the duty to provide sites was repealed by the **Criminal Justice and Public Order Act 1994**. This act also introduced greater powers to the Police (Section 61) and to the Local Authority (section 77) to evict. However a new planning led system was introduced by virtue of D of E Circular 1/94. This attempted to involve some consensus between the Gypsy and Council and sought to encourage the Gypsy to find and obtain Planning Permission for their own land, the objective being that the Gypsy would be able to establish a base from which they could travel for their work or to visit Gypsy fairs etc.
9. It was a requirement that the Local Planning Authorities should identify land which may be suitable for a Gypsy site in their Local Plan Policies. In the alternative the LPA should provide criteria which would be used as a basis for making decisions on any planning application for a Gypsy site.
10. There are very few Councils who have identified land in their Local Plan and very few Councils are able to identify land which may be available for the Gypsy to occupy and the problems which existed in 1960 have not been addressed and the consequences identified above remain as apparent today as they were at that time.
11. A recent report of **Commission for Racial Equality** dated the 2nd April 2004 expresses concern that there are at least 3,500 gypsies who have no authorised sites in the country (and that they believe is a conservative figure) The report expresses great concern at the extent to which these gypsies suffer discrimination. Reference is made to paragraph 1.1 D of ES Circular 2nd July 2003, which indicates that Gypsy children suffer the greatest discrimination in the Education System compared to any other minority group.
12. In addition the lack of site provision has been exacerbated by fact that the availability of traditional work has decreased thus reducing the ability of the gypsy to occupy land on farms during the season.

13. The Gypsy is also required (as are the community as a whole) to use forms and have a need to read and write. As a society we are now very reliant on the written word and the Gypsy who cannot read and write is at a significant disadvantage. The older Gypsy has recognised these problems and the majority now consider it to be essential for their children to be able to attend school and learn to read and write.
14. In many ways therefore the Gypsy is now being compelled to sacrifice their traditional way of life, some have accepted that they can now longer live in caravans and have moved into housing, whilst owning a caravan to travel. There is a significant portion of Gypsies who have tried this way of life unsuccessfully and reverted back to the caravan. Those Gypsies have been unable to live in a house because it has caused matrimonial upset, health problems and depression.
15. A large number of Gypsies are now seeking land to occupy as a settled base from which they travel for work. There are sacrifices to make because the men folk will travel leaving the woman and children at the base. This enables the children to attend school on a consistent basis, although they will travel as a family to work in holidays and the like.
16. The Gypsy family who has no settled base will have suffered constant eviction by the Police and other land owners or, at best, have been able to share pitches with other gypsies for short periods of time before being compelled to move on. In consequence they have either not been able to register at a school or at very best been able to attend school for short periods at a time. This has resulted in the Gypsy child receiving, at best a fragmented education and, having regard to the fact that the parent is illiterate, and not being able to read and write the children's education will be severely prejudiced.
17. The problem was identified by The Children's Society in their report following the passing of the Criminal Justice and Public Order Act 1994. Attached are relevant extracts of that report. It will be noted that the situation of three different groups of gypsies were considered:

- A) Those on a settled site.
- B) Those who have no settled base but who are able to find somewhere to stay for short periods.
- C) Those who are subjected to multiple evictions.

18. It will come as no surprise to note that those on a settled site are able to achieve a reasonable level of educational progress. Those who have to move on a regular basis are unable to achieve a settled education and the majority cannot register at a school. They are therefore deprived of their education. The third group who suffer multiple evictions are rarely able to access education.

19. The Children's Society in 1996 expressed concern for the health and education of the children in Groups B and C especially. The discrimination of the Gypsy child in the education system was identified in the D of ES Circular in July 2003 and we can see from the report of the Commission for Racial Equality in April 2004 that the problems created for the Gypsy child both in educational and health has not changed since 1996. There are still significant problems which will continue until there is adequate site provision and the Gypsies are not moved off land without having an alternative piece of land to occupy.

20. The need for an approach which recognises the difficulties experienced by Gypsies and land owners has, to an extent been recognised in Surrey as they, in liaison with their Borough Councils, have commissioned a report on the extent of the problem and presumably to recommend how the unmet need can be met.

21. There have been suggestions by various Planning Inspectors that the need of a Gypsy child is no different from that of any child who is compelled to move schools and/or that it is not essential to meet the child's needs at a specific school. This, I suggest, indicates a lack of information about the actual problems which the Gypsy child will experience. In fact if the Gypsy family is forced to leave land with no where to go they will inevitably fall within Group C of the Children's Society's survey. They will be subjected to multiple evictions. They will therefore not be able to access education or register at a school and as most of the parents cannot read or write they will be deprived of any education.

22. That is therefore a totally different situation than that experienced by a child who is moving from one school to another. In that case the school records will be passed on and often there will be liaison between the schools to discuss any specific need.

23. It is not possible to have such a dialogue when the place of residence of the child is not known yet alone the school. The same situation arises with a child in Group B.

24. There is also an obligation on the Local Education Authority to provide education for any child *who is out of school by reason of health, exclusion or howsoever* sec 19 Education Act 1996. If a child is not able to attend school as they have no settled home how will that authority comply with their legal obligation to make such provision? In consequence to evict a Gypsy family from land in the knowledge that they will be homeless will prevent the LEA from complying with their duty to educate.

25. When a Gypsy child first attends school (especially the older child) the environment is alien to him or her. It takes the child time to settle and form friendships. It is also difficult for the other children to relate to the Gypsy child in view of their preconceived ideas of the Gypsy – see CRE REPORT. I have knowledge of cases in which the Gypsy child has experienced bullying and teasing and evidence has been given by head teachers to confirm the need for a specific approach to the Gypsy child to enable them to settle before the teaching process can begin.

26. In consequence the move of schools (even if there is a school to attend) will be more difficult for the Gypsy child than for the rest of their peer group. The problem is the greater if the child is not achieving its academic potential. That is inevitably the case for the child who has had very little education or whose attendance at school has been fragmented by the constant need to move from one piece of land to another.

27. It is therefore necessary to consider how the education system provides for the child who has special educational needs. It is essential to understand that the lack of resources is not a reason for failing to make provision for a child's education, there is however severe budgeting constraints on education departments and more and more LEA's are providing extra funding into schools to enable the school to make

provision for children who might otherwise receive support and funding, in part, from the LEA.

28. The obligation to provide for a child with Special Educational needs is derived from Education Act 1996 and Government Guidance. In essence:

- A child who is not making educational progress to a level anticipated having regard to its age and potential is considered to have special educational needs. Those needs can be addressed either in school under what is known as;

**School Action, or
School Action Plus.**

- **School Action** arises when there is some concern that will involve providing extra support from the school using their own staff.
- **School Action Plus** is also provided within the school but the school will provide at their expense extra help, either in the form of advice from external experts or having extra and specialist teachers come into school.

29. In either case the support provided will normally be either by 1:1 or small group lessons or providing a learning assistant to sit with the child. The need for a settled environment is essential as the teachers and school need to know and understand the specific needs of each individual child and to have the confidence of the child. It is only when that relationship has been established that the learning process can really begin. I understand from Heads and teachers that there are difficulties in settling the child who has an established home base. The problems are far greater for the child of the Gypsy with the problems which have been identified in this paper. There is also the problem of finding a school whose staff understand and have some sympathy with the Gypsy child and its culture background.

30. If that support provided under 'School Action' or 'School Action Plus' is not achieving success, then the school or parent can seek an assessment pursuant to sec 324 Education Act 1996. If the LEA following assessment is convinced that a child will not make progress with the support provided by school they will issue a **Statement of Special Educational Needs** which should identify the extent and nature of the provision needed. The LEA will often arrange the external support and will provide additional funding to the school to ensure that a child's needs are fully met.

31. It is essential that a child with special educational needs should be provided with a settled school base, and a failure to do so will result in the child either not receiving the support or such support being fragmented and thus not being successful.

32. A Gypsy child who has special educational needs is therefore particularly vulnerable, and for the child who has no settled base the prospects of those needs being addressed is remote.

33. If the child's needs are being met within a school under 'School Action' or 'School Action Plus' there are serious concerns if the child is forced to leave, because the school will have accumulated the knowledge of the child's needs, including their emotional needs, and will have established a rapport with the child. This will undoubtedly have taken time, if the child changes school that process will need to start again, and whilst the new school will have the records the knowledge of, and confidence of the child is an essential ingredient and it will take time to establish that relationship between the child, teachers and other pupils.

34. If, of course, the family have no settled base to occupy then the child will not be able to enrol in another school and thus the programme of support will cease and all the good work done by the original school be undermined.

35. There are greater concerns if a parent has sought an assessment pursuant to sec 324 Education Act 1996 or the child has a **Statement of Special Educational Needs**. The obligation to carry out an assessment and/or to administer the

statement of special needs lies with the area of the LEA in which the child resides. That requirement causes particular problems for the Gypsy child.

36. I have experienced a problem with an LEA refusing to pursue an assessment because the parent cannot show that they have a settled base in the area. If the family are constantly being moved from one piece of land to another not only can they not provide a settled base to satisfy the 'residency' requirement of an LEA but if they move 'over the border' to another County then the obligation to provide for such a child will transfer.

37. If the responsibility for a child does transfer the new LEA will start their investigations again and thus the whole assessment process will start again. If the child has a **Statement of Special Educational Needs** then the responsibility to administrate the statement does transfer, however the new LEA will carry out their own assessment and I have experienced cases when the new LEA try to reduced and changed the level of support.

38. The 'Statementing' process takes 26 weeks from the initial request for an assessment to the issue of a final statement and if there is a change of address that process can be extended significantly. These delays will severely prejudice the child's educational progress.

39. The majority of LEA's have employed Gypsy Education Officers however they are significantly under resourced and in some of the Counties are only able to work with the child who is in school. In consequence if the child is unable to enrol in a school they will receive no support at all.

40. The **D of ES** circular indicates that the Gypsy child is the most likely of all ethnic groups to fail to achieve their educational potential and that one fifth of all Gypsy families have no settled base. In consequence of this failure to provide for a child's education there is discrimination contrary to **Article 2 Protocol 1 of Human rights Act 1998. (Right to Education)**

41. The CRE report confirms the problems identified above and also confirms the health problems caused for the Gypsy who has no settled base and the difficulties which they have registering with a Doctor.

42. I therefore suggest that the removal of a child from a piece of land when there is no available site provision for the family will have a seriously detrimental effect upon the education of the children of the family.

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